IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

Con.APP(C).No. 5 of 2007(S)
{C.O.C.NO.1532/2006 Dated 07/03/2007 OF THIS COURT}
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APPELLANT/PETITIONER/PETITIONER:

P.K.M.KUTTY HAJI, S/O. KUNHALASSAN,
A.C.BAZAR, MOONNIYOOR POST,
MALAPPURAM DISTRICT.

BY ADVS. SRI.P.S.ABDUL KAREEM
& SRI.P.K.VARGHESE

RESPONDENTS: RESPONDENTS/RESPONDENTS:

1. B.M.JAMAL,
CHIEF EXECUTIVE OFFICER,
THE KERALA STATE WAKF BOARD,
V.I.P. BOARD, KALOOR, KOCHI - 17.

2. K.V.KUNHIMOHAMMED HAJI,
SECRETARY,
MOONNIYOOR ODUNGATTUCHIRA JAMA-ATH
PALLI MAHAL COMMITTEE, P.O.MOONNIYOOR,
MALAPPURAM DISTRICT, PIN - 676 311.

BY ADV. SRI.P.A.ABDUL JABBAR, SC, WAKF BOARD
SRI.K.P.MAJEED
SMT.ISHA
SRI.P.ANOOP (MULAVANA)

THIS CONTEMPT APPEALS (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

Contempt Appeal No.5 of 2007

Dated this the 11th day of June, 2007.

JUDGMENT

H.L.DATTU, C.J.

The petitioner was before this court in W.P.(C) No.37621/04. His main prayer in the writ petition was to issue an appropriate direction to the 2nd respondent interdicting him from constructing a building in the burial ground of a public trust. His other grievance was that he had already filed an appropriate petition before the Kerala Wakf Board, Ernakulam and the same is not yet disposed of by them, in spite of long lapse of time. The learned single Judge has disposed of the writ petition by order dated 28.12.2004 and in that, has directed that the 2nd respondent shall not complete the construction of the building till the first respondent viz., the Kerala Wakf Board decides the petition filed by the petitioner, Ext.P2.

2. Alleging that the 2nd respondent, in spite of the directions issued by this court in the aforesaid writ petition, has completed the construction, the petitioner was before this court in C.C.No.1532/06. The learned Judge has disposed of the contempt petition by order dated 7.3.2007 and in that, has directed the Wakf

Board to consider the petition Ext.P2, which is numbered as O.P.No.122/04, as expeditiously as possible.

3. Aggrieved by the said direction issued in the contempt petition, the complainant is before us in this appeal.

4. In this appeal, we are not deciding the maintainability or otherwise of the appeal filed by the petitioner against the orders passed in yet another contempt petition. We leave this issue open for a decision in appropriate case.

5. The only direction that was issued by this court, while disposing of the writ petition was, that the 2nd respondent shall not put up any further construction till Ext.P2 petition, filed by the petitioner pending before the Wakf Board, is disposed of.

6. Alleging that the 2nd respondent has completed the construction, the petitioner has filed this contempt petition. In the contempt petition so filed, the petitioner has not produced any material even to suggest that after the disposal of the writ petition, the 2nd respondent has made any further construction in the disputed property. Keeping this aspect in view, the learned Judge has disposed of the contempt petition directing the Board to decide the petition filed by the petitioner as early as possible.

In our view, the learned single Judge has not committed any error whatsoever and therefore, no interference is called for in the appeal filed against the said order. This contempt appeal is dismissed. Ordered accordingly.

Sd/-
H.L.DATTU
CHIEF JUSTICE

Sd/-
K.T.SANKARAN
JUDGE

sk/

//true copy//

P.S. To Judge